

1-1 By: Hall, et al. S.B. No. 83
1-2 (In the Senate - Filed November 14, 2016; January 24, 2017,
1-3 read first time and referred to Committee on Business & Commerce;
1-4 May 1, 2017, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; May 1, 2017, sent
1-6 to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Hancock	X		
1-10	Creighton	X		
1-11	Campbell	X		
1-12	Estes	X		
1-13	Nichols	X		
1-14	Schwertner	X		
1-15	Taylor of Galveston	X		
1-16	Whitmire	X		
1-17	Zaffirini	X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 83 By: Creighton

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to protection of energy critical infrastructure from
1-22 electromagnetic, geomagnetic, physical, and cyber-attack threats.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Chapter 418, Government Code, is amended by
1-25 adding Subchapter I to read as follows:

1-26 SUBCHAPTER I. ELECTROMAGNETIC THREAT PREPAREDNESS

1-27 Sec. 418.201. ELECTROMAGNETIC THREAT PREPAREDNESS TASK
1-28 FORCE. (a) In this section, "energy critical infrastructure"
1-29 means an electrical power generation facility, substation,
1-30 switching station, electrical control center, or electrical
1-31 transmission or distribution facility and includes an associated
1-32 electronic control center and other electronic infrastructure used
1-33 in electric power delivery.

1-34 (b) The electromagnetic threat preparedness task force is
1-35 created. The task force shall coordinate with the Commission to
1-36 Assess the Threat to the United States from Electromagnetic Pulse
1-37 (EMP) Attack, the United States Department of Defense, the United
1-38 States Department of Energy, and the United States Department of
1-39 Homeland Security to apply research and information on
1-40 electromagnetic, geomagnetic, physical, and cyber-attack threats.

1-41 (c) The task force consists of 10 members appointed by the
1-42 chief described by Section 418.041. Each member must be a regional
1-43 emergency management representative or other employee of the
1-44 Department of Public Safety the chief determines could make
1-45 valuable contributions to the development of the plan under
1-46 Subsection (d)(4).

1-47 (d) The task force shall:

1-48 (1) identify technical and electronic resources to
1-49 assist the division in the division's functions;

1-50 (2) implement a program to educate owners and
1-51 operators of energy critical infrastructure and vital utility
1-52 facilities and emergency responders about electromagnetic,
1-53 geomagnetic, physical, and cyber-attack threats;

1-54 (3) evaluate emergency planning, response procedures,
1-55 and supporting technologies related to electromagnetic,
1-56 geomagnetic, physical, and cyber-attack threats; and

1-57 (4) develop a comprehensive threat protection and
1-58 recovery plan for energy critical infrastructure and vital utility
1-59 facilities of this state against electromagnetic, geomagnetic,
1-60 physical, and cyber-attack threats.

(e) Information collected by the task force related to the security of the electric grid is confidential and is not subject to disclosure under Chapter 552. Each member of the task force and any third-party individual with access to information under this section shall sign a nondisclosure agreement stating that the individual will not disclose to the public any sensitive or identifiable information related to grid security measures or plans.

(f) Not later than July 1, 2018, the task force shall prepare and submit to the governor and the legislature a report of the task force's findings and recommendations.

(g) A member of the task force established under this section is not entitled to compensation. Members may be reimbursed for expenses as follows:

(1) a member is entitled to reimbursement for travel and other necessary expenses as provided by the General Appropriations Act; and

(2) a member appointed as a representative of a state agency is eligible for reimbursement for travel and other necessary expenses according to the applicable agency's policies.

(h) This section expires December 1, 2018.

Sec. 418.202. TECHNOLOGICAL HAZARDS. (a) In this section, "energy critical infrastructure" means an electrical power generation facility, substation, switching station, electrical control center, or electrical transmission or distribution facility and includes an associated electronic control center and other electronic infrastructure used in electric power delivery.

(b) The division shall consider implementation of the comprehensive threat protection and recovery plan developed by the electromagnetic threat preparedness task force for energy critical infrastructure and vital utility facilities of this state against electromagnetic, geomagnetic, physical, and cyber-attack threats.

(c) The governor may instruct an agency to take actions as are necessary to implement the comprehensive threat protection and recovery plan developed by the electromagnetic threat preparedness task force as funding becomes available.

(d) Information collected by the division related to the security of the electric grid is confidential and is not subject to disclosure under Chapter 552.

SECTION 2. Chapter 39, Utilities Code, is amended by adding Subchapter M to read as follows:

SUBCHAPTER M. GRID SECURITY

Sec. 39.601. DEFINITIONS. In this subchapter:

(1) "Committee" means the Electric Grid Security Advisory Committee.

(2) "Energy critical infrastructure" has the meaning assigned by Section 418.202, Government Code.

Sec. 39.602. INFORMATION RELATED TO GRID SECURITY NONDISCLOSURE. (a) Information related to the security of the electric grid is confidential and is not subject to disclosure under Chapter 552, Government Code.

(b) Each individual with access to information related to the security of the electric grid under this subchapter shall sign a nondisclosure agreement stating that the individual will not disclose to the public any sensitive or identifiable information related to grid security measures or plans.

Sec. 39.603. GRID SECURITY ADVISORY COMMITTEE. (a) The Electric Grid Security Advisory Committee is composed of the following members:

(1) two members appointed by the governor;
(2) two members appointed by the lieutenant governor;
and

(3) two members appointed by the speaker of the house of representatives.

(b) The governor shall designate a member of the committee to serve as presiding officer.

(c) The committee shall convene at the call of the presiding officer.

(d) The committee shall review the findings of the

electromagnetic threat preparedness task force.

(e) A member of the committee is not entitled to compensation but is entitled to reimbursement for the member's travel expenses as provided by Chapter 660, Government Code, and the General Appropriations Act.

(f) A vacancy on the committee shall be filled for the unexpired term in the same manner as the original appointment.

(g) The committee is not subject to Chapter 2110, Government Code.

(h) Not later than September 1, 2018, the committee shall prepare a report of its findings, including any recommendations for legislation resulting from the findings, and shall submit the report to the governor, the lieutenant governor, and the speaker of the house of representatives.

(i) The committee's work relates to sensitive matters of security. Notwithstanding any other law, the meetings, work, and findings of the committee are not subject to the requirements of Chapter 551 or 552, Government Code.

(j) A member of the committee may not be a member or employee of the North American Electric Reliability Corporation, the Federal Energy Regulatory Commission, or the Electric Power Research Institute.

(k) This section expires January 1, 2019.

Sec. 39.604. GRID PROTECTION. (a) This section applies to:

- (1) a transmission and distribution utility;
- (2) an owner of a power generation facility;
- (3) an electric cooperative operating in ERCOT;
- (4) a river authority operating in ERCOT; and
- (5) a municipally owned utility operating in ERCOT.

(b) Not later than December 31, 2018, each entity to which this section applies shall assess and report to the technological hazards unit of the Texas Division of Emergency Management the vulnerabilities the equipment, facilities, and systems the entity uses to provide power have to the following:

- (1) a high altitude electromagnetic pulse device;
- (2) geomagnetic storms;
- (3) intentional electromagnetic interference;
- (4) a physical attack; and
- (5) a cyber attack.

(c) This section is not intended to penalize electric providers in this state. If vulnerabilities in the security of the electric grid in this state are identified through the process established in this section and the legislature, in consultation with the governor, determines enhancements to energy critical infrastructure of the electric grid are necessary, the legislature may determine whether enhancements will be funded by appropriating general revenue of this state, by a new ratepayer cost recovery mechanism, or by a combination of those methods.

SECTION 3. The governor, the lieutenant governor, and the speaker of the house of representatives shall appoint members to the Electric Grid Security Advisory Committee, as required by this Act, as soon as practicable after the effective date of this Act, but not later than the 120th day after the effective date of this Act.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

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